



**CITY OF SUNNYVALE  
REPORT  
Planning Commission**

**November 28, 2005**

**SUBJECT:** **2005-0664** – Application located at **885 Lakechime Drive** in an R-0 (Low-Density Residential) Zoning District.

**MOTION:** Appeal of a decision by the Administrative Hearing Officer to deny a Variance from Sunnyvale Municipal Code section 19.34.030 to allow for a 264 square-foot accessory utility building with a 2.5-foot side-yard setback where 4 feet is required and a 2-foot rear-yard setback where 10 feet is required.

**REPORT IN BRIEF**

**Existing Site Conditions**                      Single-Family Home

**Surrounding Land Uses**

North                      Single-Family Home

South                      Lakewood Park

East                      Single-Family Home

West                      Single-Family Home

**Issues**                      Setbacks

**Environmental Status**                      A Class 5 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines.

**Staff Recommendation**                      Deny the Appeal and Uphold the Administrative Hearing Officer's decision to deny the Variance.



**PROJECT DATA TABLE**

	<b>EXISTING</b>	<b>PROPOSED</b>	<b>REQUIRED/ PERMITTED</b>
<b>General Plan</b>	Residential Low Density	Same	Residential Low Density
<b>Zoning District</b>	R-0	Same	R-0
★ <b>Lot Size (s.f.)</b>	5,720	Same	6,000 min.
★ <b>Lot Width</b>	55'	Same	57' min.
<b>Gross Floor Area (s.f.)</b>	1,994	2,258 (264 s.f workshop)	No max.
<b>Lot Coverage (%)</b>	35%	39%	45% max.
<b>Floor Area Ratio (FAR)</b>	35%	39%	45' max. without PC review
<b>No. of Buildings On-Site</b>	1	2	---
<b>Distance Between Buildings</b>	N/A	11'6"	10' min.
<b>Workshop Height (ft.)</b>	N/A	10'6"	15' max.
<b>Setbacks of Accessory Structure</b>			
<b>Front</b>	N/A	90'6"	20' min. (10' to main building)
<b>Left Side</b>	N/A	30'6"	4' min. (12' total)
★ <b>Right Side</b>	N/A	2'6"	4' min. (12' total)
★ <b>Rear</b>	N/A	2	20 min. (10 ft permitted with < 25% encroachment / 20' min.)
<b>Parking</b>			
<b>Total Spaces</b>	4	Same	4 min.
<b>Covered Spaces</b>	2	Same	2 min.

★ Starred items indicate deviations from Sunnyvale Municipal Code requirements.

## **ANALYSIS**

---

### **Description of Proposed Project**

The proposed project is for a Variance from side and rear yard setback requirements to allow a 264 square foot workshop/shed (built without permits) at the rear of the site. The workshop enables storage of tools and equipment in addition to construction activities for small household projects. Attachment E includes the applicant's justifications and intentions for the workshop.

### **Background**

**Previous Actions on the Site:** There are no previous planning actions related to this site until this year.

**Neighborhood Preservation Involvement:** In April of 2005, the Neighborhood Preservation Division was notified of possible un-permitted construction taking place at the site. This construction is in the process of being removed in accordance with enforcement action taken by the Neighborhood Preservation Division. The resident was notified that the existing workshop at a separate location on the site would require permits.

**Administrative Hearing:** On August 10, 2005, staff noted the application for the Variance was for an un-permitted shed built within the required rear and side yard setbacks. At the public hearing, the Administrative Hearing Officer took the item under advisement and subsequently denied the proposal on Friday August 12, 2005. The applicant appealed the decision on August 24, 2005.

### **Environmental Review**

A Class 5 Categorical Exemption relieves this project from California Environmental Quality Act provisions. Class 5 Categorical Exemptions include minor alterations in land use limitations, including setback variances.

### **Variance**

**Site Layout:** The subject property is a mid-block lot, typical for this neighborhood, located near the corner of Lakechime Drive and Silverlake Drive. The structure, which has already been built, is located 2' from the rear property line and 2' 6" from the side property line. A 10-foot rear yard setback for one-story additions or accessory buildings is permitted, provided the

encroachment does not exceed 25% of the area. A maximum 276 square feet would be allowed on the subject site. If the shed was moved to the minimum 10 foot setback, the proposed workshop would comply with the 25% allowable encroachment.

In order to meet setbacks, the shed would need to be positioned 10 feet from the rear and 4 feet from the side property lines. However, at the 10-foot setback, the shed would need to be reduced in overall size, as it would be located too close to the home. Sunnyvale Municipal Code Section 19.48.040 also requires a ten foot separation between buildings, but that can be reduced to five feet if no windows are facing each other). This requirement would also require elimination or changes to the window locations of the workshop.

**Easements and Undergrounding:** An existing PG&E easement lies within the last five feet of the property. In certain situations, small structures may be allowed within this area. If this Variance application is approved, staff recommends including Condition of Approval #1D requiring a letter from PG&E permitting an encroachment within the 5-foot easement, prior to approval of a building permit.

**Architecture:** The architecture of the proposed building contains an angled roof design that is compatible with the home and other structures in the neighborhood. The workshop is constructed with stucco siding to match the material used on the home. The workshop also includes two metal roll-up doors at the front of the structure to enable easier access to larger equipment within the workshop. The doors are not intended for vehicular access.

The following Guidelines were considered in the analysis of the project architecture.

<b>Single Family Home Design Techniques (Architecture)</b>	<b>Comments</b>
<i>3.10 B. Accessory structures should use the same wall, roof and trim materials as the main structure.</i>	The workshop is constructed with similar materials and design as the main home

**Landscaping:** There are no landscape requirements for properties located in the R-0 Zoning District.

**Parking/Circulation:** Required parking is not affected by the proposal. The site meets the required two covered and two uncovered spaces by Sunnyvale Municipal Code 19.46.050.

**Compliance with Development Standards/Guidelines:** The proposed workshop does not meet the required 4' side and 10' rear setbacks. As noted previously in the report, all setbacks are required to be met within the R-0 Zoning District for accessory structures over 120 square feet. Staff could consider a Miscellaneous Plan Permit application for encroachment within the 10-foot rear yard setback if the workshop was reduced to a 120 square feet or less instead of 264 square feet. The subject lot size is considered "legal non-conforming" with approximately 5,720 s.f., where a minimum 6,000 s.f. is required for the R-0 Zoning District. Many of the properties within the neighborhood have a similar lot size as the subject property. Additionally, the lot width of the property is sub-standard at 55 feet where a minimum 57 feet is required for mid-block properties within the R-0 Zoning District. The site is also not unique in this regard to homes within the surrounding neighborhood.

**Expected Impact on the Surroundings:** The workshop is not visible from Lakechime Drive and mostly obstructed from view from Silverlake Drive. The structure can be seen by the neighboring property to the north over an existing fence. The applicant has submitted additional information noting other accessory structures within the neighborhood. The current structure appears to be well constructed in terms of design and materials used; however, City staff reviews each situation on a case by case basis. It appears that some of these structures have obtained the necessary permits from the City. The Neighborhood Preservation Division is actively reviewing code enforcement issues related to similar structures throughout the City.

---

**Fiscal Impact**

---

No fiscal impacts other than normal fees and taxes are expected.

---

**Public Contact**

---

Although not included within this report, the applicant has submitted a petition containing 116 signatures for support of the proposed Variance. Attachment F also contains a letter of support from a nearby resident.

An additional letter (Pages 2-4 of Attachment F) from a neighboring resident raises concerns regarding the impact of the shed and future plans to expand. The requirement for a ten or five foot separation of buildings does not apply to structures on separate lots; therefore if approved, the workshop would not impact the neighbor's opportunity to expand. The resident also mentions concerns with privacy and possible conversion of the accessory building to living area. If approved, the shed shall not be converted to living space per Condition of Approval #1E. The Building Division has also confirmed that the possible addition would not require fire rating due to the current location of the adjacent structure.

Since the previous public hearing, the applicant has submitted a letter from a doctor citing concerns with health and the quality of life for the resident (Attachment F, Page 5) as justification for keeping the shed.

Notice of Public Hearing	Staff Report	Agenda
<ul style="list-style-type: none"><li>• Published in the <i>Sun</i> newspaper</li><li>• Posted on the site</li><li>• 6 notices mailed to property owners and residents adjacent to the project site</li></ul>	<ul style="list-style-type: none"><li>• Posted on the City of Sunnyvale's Website</li><li>• Provided at the Reference Section of the City of Sunnyvale's Public Library</li></ul>	<ul style="list-style-type: none"><li>• Posted on the City's official notice bulletin board</li><li>• City of Sunnyvale's Website</li><li>• Recorded for SunDial</li></ul>

---

## Conclusion

---

**Findings and General Plan Goals:** Staff is recommending denial for this project because the Findings (Attachment A) were not made. However, if the Planning Commission is able to make the required findings, staff is recommending the Conditions of Approval located in Attachment B.

**Conditions of Approval:** Conditions of Approval are located in Attachment B.

---

## Alternatives

---

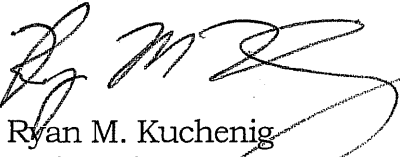
1. Deny the Appeal and Uphold the Administrative Hearing Officer's decision to deny the Variance.
2. Grant the Appeal and Approve the Variance with attached conditions.
3. Grant the Appeal and Approve the Variance with modified conditions.

**Recommendation**

---

Alternative 1.

Prepared by:



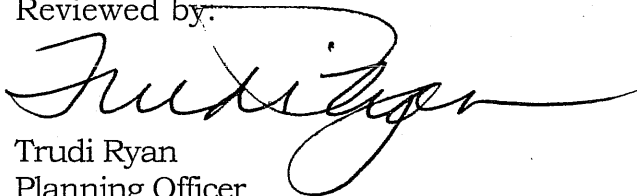
Ryan M. Kuchenig  
Project Planner

Reviewed by:



Gerni Caruso  
Principal Planner

Reviewed by:



Trudi Ryan  
Planning Officer

Attachments:

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Site and Architectural Plans
- D. Photos submitted by the Applicant
- E. Letter from the Applicant
- F. Letters from Other Interested Parties



**Recommended Findings - Variance**

---

1. Because of exceptional or extraordinary circumstances or conditions applicable to the property, or use, including size, shape, topography, location or surroundings, the strict application of the ordinance is found to deprive the property owner or privileges enjoyed by other properties in the vicinity and within the same zoning district. (*Finding Not Met*)

Staff does not believe that there are exceptional or extraordinary circumstances that deprive the property owner of rights or privileges. Although, the site is considered undersized in terms of lot size and lot width for the R-0 Zoning District, it is similar to other properties within the vicinity. The shed could be reduced and relocated to meet current setback requirements.

2. The granting of the Variance will not be materially detrimental to the public welfare or injurious to the property, improvements or uses within the immediate vicinity and within the same zoning district. (*Finding Met*)

Staff finds that the proposed workshop is not materially detrimental to the property or to the immediate neighborhood as it screened and designed appropriately to mitigate aesthetic concerns within the immediate area.

3. Upon granting of the Variance, the intent and purpose of the ordinance will still be served and the recipient of the Variance will not be granted special privileges not enjoyed by other surrounding property owners within the same zoning district. (*Finding Not Met*)

Similar structures within the neighborhood are required to meet the setbacks and lot coverage requirements of the R-0 Zoning District. The applicant has noted other accessory buildings within the surrounding neighborhood. In certain cases, City requirements are met and the necessary permits have been obtained. As noted in the report, the Neighborhood Preservation Division assists with concerns related to code enforcement of accessory structures that do not appear to meet City ordinances. Each proposal is reviewed on a case by case basis to determine the appropriate permit process.

**Recommended Conditions of Approval - Variance**

---

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following conditions of approval of this Permit:

Unless otherwise noted, all conditions shall be subject to the review of approval of the Director of Community Development.

**1. GENERAL CONDITIONS**

- A. The Variance shall be null and void two years from the date of approval by the final review authority if the approval is not exercised.
- B. Project shall be in conformance with the plans approved at the public hearing. Minor changes may be approved by the Director of Community Development; major changes may be approved at a public hearing.
- C. Obtain building permits for the proposed plan.
- D. Prior to building permit approval, provide a letter from PG&E that enables the accessory building to be located within the required easement.
- E. The accessory building shall not be used for living purposes.